

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**C.R.No. 1663 of 1997
Date of decision : 7.2.2007**

Pepsu Road Transport Corporation.

.....Appellant.

Versus

Surjit Kaur and others.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : None for the appellant.
 Mr.Sameer Sachdeva,Advocate
 for respondent No.1.

VINOD K. SHARMA,J.(ORAL)

This order will dispose of F.A.O. Nos. 1663 and 1647 of 1997.

For the sake of convenience, the facts are being taken from F.A.O. No. 1663 of 1997.

Both these appeals filed by the Pepsu Road Transport Corporation arising out of the common award passed by the learned Motor Accident Claims Tribunal, Faridkot in MACT cases Nos. 38 and 39 dated 31.10.1992.

Claimant-respondents herein filed a claim petition under Section 166 of the Motor Vehicles Act claiming compensation on account of death of Sandhura Singh in a motor vehicular accident.

The precise facts of the case are that Sandhura Singh deceased and Gurdial Singh claimant in MACT case No. 39 dated 31.10.1992 were travelling on scooter No. PCO 3454 on 9.5.1992. The scooter was driven by Sh. Gurdial Singh whereas Sandhura Singh deceased was sitting on the

pillion. When they reached near the service station of Karnail Singh in the revenue estate of village Badhni Kalan a bus bearing registration No. PB-11A-9254 belonging to Pepsu Road Transport Corporation Barnala Depot, which was being driven by Kewal Singh respondent No.6 herein rashly and negligently came from the side of Barnala and without blowing horn struck against the scooter. The scooter was said to be driven on left side of the road and in the said accident both the driver and the pillion rider sustained injuries. In the Civil Hospital, Moga Sh. Sandhura Singh succumbed to his injuries whereas Gurdial Singh survived. The claimants in claim petition No. MACT 38 dated 31.10.1992 claimed a sum of Rs. 8,05,000/- as compensation on account of the death of Sandhura Singh whereas Gurdial Singh claimant in another case claimed Rs. 12,87,162/- on account of injuries sustained in the accident.

The claim petition was contested by respondent Nos. 1 to 3 before the Tribunal wherein a stand was taken that the accident occurred due to the rash and negligent driving by Gurdial Singh scooter driver. It was further claimed that Sandhura Singh was not earning anything and that he was a liability on the family. The quantum of compensation was also challenged. It was also claimed that the bus was insured with respondent No.4 i.e. Insurance Company. It was further pleaded that accident had occurred due to breaking of leaf (road spring) which was unforeseen circumstance. The insurance company disputed its liability to pay the compensation primarily on the ground that the insurance policy was cancelled.

On the pleadings of the parties, following issues were framed in claim petition No. MACT 38 dated 31.10.1992 by the learned Tribunal :-

1. Whether Sandhura Singh died because of the rash and negligent driving of bus No. PB-11-A 9254 belonging to P.R.T.C. Barnala Depot by Kewal Singh respondent on 9.5.1992 at about 7:00 a.m.?OPP
2. Whether the claimants are the legal heirs/dependent of the deceased? OPP
3. Whether this bus was insured with United India Insurance Company and the insurance policy was in force on 9.5.1992 and further the said Insurance Policy was enforceable against the United India Insurance Company Ltd. Moga ? OPR 1 & 2.
4. To what amount of compensation the claimants are entitled to, if so, from whom? OPP
5. Relief.

The following issues were framed in claim petition titled Gurdial Singh Vs. P.R.T.C. by the learned Tribunal :-

1. Whether Gurdial Singh suffered personal injury on 9.5.1992 at about 7:00 a.m. on account of the rash and negligent driving of bus No.PB-11-A-9254 belonging to P.R.T.C. Barnala Depot by Kewal Singh respondent ? OPP
2. To what amount of compensation the claimant is entitled to, if so, from whom ? OPP
3. Whether the bus was insured with United India Insurance Company and the Insurance Policy was in force on

9.5.1992 and further the said insurance policy was enforceable against the United India Insurance Company Ltd. Moga ? OPR 1 & 2.

4. Relief.

The learned Tribunal on issue No.1 came to the conclusion that the accident had occurred due to rash and negligent driving of Bus No. PB-11-A-9254 belonging to P.R.T.C. Barnala Depot which was driven by Kewal Singh respondent. This finding has been recorded on the basis of evidence led before the Tribunal especially in view of the fact that the stand taken by the driver of the bus was that the leaf of the front wheel (road spring) had broken earlier and was repaired temporarily, which was the cause of accident. Accordingly, the learned Tribunal came to the conclusion that in such a situation, the bus should have been kept off the road till it was properly repaired.

On issue No.2 the learned Tribunal has held that the claimants are the legal heirs of the deceased.

On issue No.3, the learned Tribunal came to the conclusion that the bus was insured with the Insurance Company respondent No.4. It is pertinent to mention here that against this very award the Insurance Company had filed FAO No.1725 of 1997, which was disposed of on 16.12.1997. The insurance Company was absolved of its liability to pay the compensation keeping in view the fact that civil suit filed by the appellant herein against the cancellation of insurance policy was dismissed.

On issue No. 4, the learned Tribunal was pleased to grant a sum of Rs. 3,26,000/- (Rs. three lakh and twenty six thousand only) as compensation to claimants in MACT case No.38 dated 31.10.1992 whereas

in MACT case No. 39 dated 31.10.1992 Gurdial Singh injured was granted a sum of Rs. 1,25,000/- as compensation. The claimants were also held entitled to interest @ 12% per annum.

In the grounds of appeal the appellant had challenged the award primarily on the ground that the accident had occurred due to the rash and negligent driving of scooter driver and also on the ground that no independent witnesses were examined. There is no force in this contention as the learned Tribunal on appreciation of evidence has come to the conclusion that the accident had occurred due to the rash and negligent driving by Kewal Singh while driving bus No.PB-11-A-9254. Sh. Gurdial Singh admittedly was an eye witness to the accident.

It was also claimed that the compensation granted was highly excessive. There is no force in this contention also as Rs. 3,26,000/- (Rs. three lakh and twenty six thousand only) for an agriculturist, who was 32 years of age at the time of accident, cannot be said to be excessive.

Accordingly, there is no merit in the present appeals, hence, the same are dismissed.

February 7,2007
'sp'

(VINOD K. SHARMA)
JUDGE